

REMARKS

As a preliminary matter, Applicant is grateful for reconsideration, and allowance of claims 7-10, and a finding of allowability with respect to claims 54-57. With regard to the objected to claims, rewriting of same will presently result in a redundancy with claims 7-10. In lieu of allowance of claims 1 and 6, or claim 6, Applicant has canceled said claims, without prejudice, along with claims 11, 12, 14, 15, and 16, the subject matter of which Applicant reserves the right to pursue in a Request for Continued Examination, or one or more continuations of the subject application.

Claims 1, 3-5, 11-12, 15 and 53 have been finally rejected on the combination of Gross et al. and Hoffman, with said combination forming the basis of rejection of all remaining non-allowed claims, namely, claim 2 with High '109, claim 6 & 16 with Middlebrook '740, and claim 14 with Strasnick et al. '381.

Reconsideration is again requested.

Applicant vehemently re-adopts its prior arguments of March 23, 2005, and respectfully submits that: (1) the outstanding Action is incomplete in contravention of 37 CFR §1.104/MPEP §707.07; and, (2) a prima facie case of unobviousness has not been established, or, assuming arguendo that it has, that Applicant has in fact rebutted any such prima facie case.

All Material Traversed not Answered

Pursuant to 37 CFR §1.104(b), the examiner's action is to be complete as to all matters. Furthermore, and more particularly, arguments in support of traversal are to be answered (MPEP 707.07(f)), and "piecemeal examination" is to be avoided (MPEP 707.07(g) noting in part, "Where a major technical rejection is proper, it should be stated with a full development of reasons rather than by a mere conclusion coupled with some stereotyped expression.").

It is respectfully submitted that the "Response to Arguments," Detailed Action, p. 8, is non-responsive to Applicant's arguments of March 23, 2005, more particularly, it lacks any rebuttal to Applicant's arguments that there exists no motivation to combine Hoffman with Gross et al. as suggested, the operability of the primary reference being destroyed in the context of the combination. Such disregard, inadvertent or otherwise, is, in all shapes and forms, violative of the requirements of 37 CFR §1.104(b) and MPEP §707.07. The pertinent passage previously presented by Applicant, Remarks, dated March 23, 2005, p. 9-10, is as follows:

First, as noted in the Action, Gross et al. do not teach a display of one or more sentences. What is taught is the brief, flashed, visual presentation of words or word groups so as to preclude visual regression within a text in furtherance of teaching reading (see e.g., 4:46 et seq., 8:1-18). As Gross et al. believe the preclusion of visual regression is critical to teaching or improving reading, transitorily presented words/word combinations are thusly an essential means towards that end: "It is obviously impossible for a student-user to regress in the text material read because each word group is no longer visually apparent upon the monitor screen after its single transitory, flashed, presentation." (8:15-18). It is

respectfully submitted that the importation of a full sentence display teaching, whether it be from Hoffman or otherwise, flies in the face of Gross et al.'s problem/solution calculus. As such, the combination is improper, there being no motivation or suggestion to combine same.

It is respectfully requested that the Examiner rebut Applicant's outstanding traversal.

No Prima Facie Case has been Established

To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and, (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Office bears the burden of establishing a *prima facie* case of obviousness (In re Deuel, 51 F.3d 1552, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995)). Only if the burden is met does the burden with coming forward with rebuttal argument or evidence shift to applicant. (Id). When the references cited fail to establish a *prima facie* case of obviousness, the rejection is improper, and

shall be overturned. (Id).

We reiterate the following "basic considerations which apply to obviousness rejections" (MPEP §2141(4)):

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

A showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." (Brown & Williamson Tobacco Corp. v. Phillip Morris Inc., 229 F.3d 1120, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000) citing C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998)). The factual inquiry whether to combine references must be thorough and searching, and **must be based on objective evidence of record.** (In re Lee, 277 F.3d 1338, 61 USPQ2d 1430-34 (Fed. Cir. 2002), emphasis supplied). The need for specificity is pervasive in the law (see, e.g., In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000)).

In the outstanding Action, more particularly, paragraph 10 thereof captioned "Response to Arguments," the importation of

Hoffman's teleprompter display into Gross et al.'s tachistoscope is supported with the following reasoning: "Since reading comprehension is a cumulative stepwise process, it is reasonable that one begin with comprehending words, then phrases, then sentences, and so on." The subject rationale flies in the face of the explicit teaching of the primary reference, and, it is legal error to supplant an explicit reference teaching with personal knowledge or opinion of the examiner in lieu of evidence (see, e.g., Ex parte Griffith, 58 USPQ 429 (Pat. Bd. App. 1943) as well as Patent Office Patent Examiner Initial Training (PEIT) Manual, Ch. 8, at 8-10 (rev. Feb. 8, 2001), noting that failure of the Office to provide information for an obviousness rejection may be petitioned to the Director, 37 CFR §1.181(a)(3)). Fundamentally, the Gross et al. reference has not been considered as a whole.

The combination lacks claimed features

Presently, the independent claims require, among other features: varying vertical and horizontal positions of portions of characters of character content (claim 1); varying a display of character sequence of a sentence such that multiple segments are simultaneously positioned in a multi-dimensioned matrix (claim 53); and, hierarchically extracting linguistic attributes from select text and selectively re-positioning portions of the select text within top/bottom and left/right boundaries of a display surface based upon the hierarchically extracted linguistic attributes of

said select text such that successive linear segments of the select text is successively vertically displayed within the top/bottom boundaries of the display surface (claim 58, newly added).

In connection to claim 1, it is alleged at Detailed Action p. 3 that "Hoffman teaches a conventional teleprompter variably scrolling sentences upward, (Hoffman Figure 1, 2, column 3, lines 1-22) following the speech of a visual recording, therefore the horizontal/vertical positions of characters are varied accordingly." This is incorrect for several reasons.

First, only the **vertical** positions of the character segments, i.e., word or word group, are varied in the upward scrolling movement; the horizontal positions of the character segments are not varied. Second, the **relative** positions of the character segments -- relative to one another -- are not varied at all, neither in their relative horizontal nor their relative vertical positions. Rather, the layout of the character segments on a large x,y matrix -- a matrix which can exceed the available surface area of the display window -- is **fixed**; the only parameter that changes (and, per Hoffman, can vary in time based on the audio recording of the text being read aloud) is the position of the display window that is superimposed over the larger x,y matrix of the text as a whole (see **EXHIBIT A** herewith evidencing Hoffman's treatment of a portion of the Declaration of Independence).

Moreover, because neither Gross et al., nor Hoffman, nor their

combination, extract sentence-specific attributes, let alone hierarchically extracting linguistic attributes (claim 58), that would differentiate one character or text segment from another -- there is no compelling reason in Gross et al., or in Hoffman, or in their combination, to do anything other than display one group of words after another at different points in time. In the case of Gross et al., the positions of the words are pre-ordained, and are only sequentially revealed, in a flashing pattern, at different points in time. In the case of Hoffman, the positions of the words are also preordained in a larger x,y layout that can exceed the vertical length of the available display window, and are similarly only sequentially revealed, one group at a time (which may be one or more than row of text at a time), with the movement of the display window down the larger x,y matrix of the layout of the text.

The claimed methods of claims 1, 53 and 58 extract text attributes from select text and differentiate horizontal and vertical positions of the character segments of the text relative to one another, e.g., in a multidimensional matrix (claim 53) or within top/bottom and left/right boundaries of a display surface based upon the hierarchically extracted linguistic attributes whereby successive linear segments of the select text is successively vertically displayed within the top/bottom boundaries of the display surface (claim 58) (see **EXHIBIT B** herewith evidencing

Applicant's treatment of a portion of the Declaration of Independence of Exhibit A).

CONCLUSION

For the reasons above, it is respectfully submitted the case is in condition for allowance, including newly added claim 58. Early reconsideration and favorable action are solicited.

Please charge any deficiencies or credit any over payment to Deposit Account 14-0620.

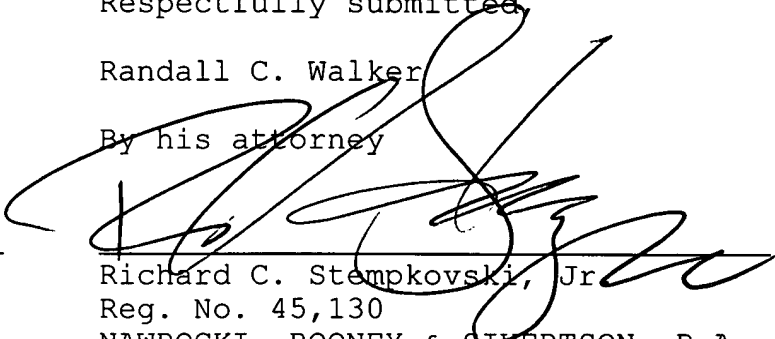
Respectfully submitted,

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Date

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